

MANDATORY ENFORCEMENT VIOLATIONS

The following violations are severe violations of the FMCSRs including the falsification of documents, that require immediate enforcement action, regardless of whether the FMCSA has had any previous contacts with the entity.

The requirement to take enforcement action on discovery of the following violations should in no way limit the initiation of an enforcement action for other recordkeeping or non-recordkeeping violations according to existing guidelines and procedures.

PART 382

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| 382.201 | Using a driver who has an alcohol concentration of 0.04 or greater. |
| 382.211 | Using a driver who refused to submit to a required alcohol or controlled substances test required under part 382. |
| 382.215 | Using a driver known to have tested positive for a controlled substance. |

PART 383

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| 383.37(a) | Allowing, requiring, permitting, or authorizing an employee who is disqualified to operate a commercial motor vehicle or whose commercial driver's license is suspended, revoked, or canceled by a State or who is disqualified to operate a commercial motor vehicle. |
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NOTE: ENFORCEMENT ACTION IS MANDATORY ONLY WHEN THE DRIVER WAS SUSPENDED FOR A SAFETY-RELATED REASON SUCH AS A DISQUALIFYING OFFENSE, SERIOUS TRAFFIC VIOLATION, MULTIPLE MOVING VIOLATIONS, ETC. ENFORCEMENT ACTION IS NOT MANDATORY IF THE DRIVER WAS SUSPENDED FOR A REASON NOT RELATED TO SAFETY SUCH AS FAILURE TO PAY TAXES OR CHILD SUPPORT, ETC.

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| 383.37(b) | Allowing, requiring, permitting, or authorizing an employee with more than one commercial driver's license to operate a commercial motor vehicle. |
| 383.51(a) | Allowing, requiring, permitting or authorizing a driver to drive who is disqualified to drive a commercial motor vehicle. |

NOTE: ENFORCEMENT ACTION IS MANDATORY ONLY WHEN THE DRIVER WAS SUSPENDED FOR A SAFETY-RELATED REASON SUCH AS A DISQUALIFYING OFFENSE, SERIOUS TRAFFIC VIOLATION, MULTIPLE MOVING VIOLATIONS, ETC. ENFORCEMENT ACTION IS NOT MANDATORY WHEN THE DRIVER WAS SUSPENDED FOR A REASON NOT RELATED TO SAFETY SUCH AS FAILURE TO PAY TAXES OR CHILD SUPPORT, ETC.

PART 391

391.11(b)(4) Using a physically unqualified driver.

391.15(a) Using a disqualified driver.

NOTE: ENFORCEMENT ACTION IS MANDATORY ONLY WHEN THE DRIVER WAS DISQUALIFIED BY THE FMCSA.

PART 392

392.4(b) Requiring or permitting a driver to drive while under the influence of, or in possession of, a narcotic drug, amphetamine, or any other substance capable of rendering the driver incapable of safely operating a commercial motor vehicle.

NOTE: ENFORCEMENT ACTION IS MANDATORY ONLY WHEN THE MOTOR CARRIER HAD KNOWLEDGE OF THE VIOLATION.

392.5(b)(1) Requiring or permitting a driver to operate a commercial motor vehicle within 4 hours of using, while under the influence of, or having physical control of, alcohol.

NOTE: ENFORCEMENT ACTION IS MANDATORY ONLY WHEN THE MOTOR CARRIER HAD KNOWLEDGE OF THE VIOLATION.

PART 396

396.9(c)(2) Requiring or permitting the operation of a motor vehicle declared "Out-of-Service" before repairs were made.

NOTE: ENFORCEMENT ACTION IS MANDATORY ONLY WHEN THERE IS EVIDENCE OF THE EXISTENCE OF AN OOS DEFECT THAT WAS NOT REPAIRED BEFORE THE VEHICLE WAS OPERATED AGAIN.

396.11(c) Failing to correct Out-of-Service defects listed by driver on a driver vehicle inspection report.

NOTE: ENFORCEMENT ACTION IS MANDATORY ONLY WHEN THERE IS EVIDENCE OF THE EXISTENCE OF AN OOS DEFECT AND UNMADE REPAIR.

PART 397

397.5(a) Failing to ensure a motor vehicle containing Division 1.1, 1.2, or 1.3 (explosive) material is attended at all times by its driver or a qualified representative.

SERIOUS RECORDKEEPING VIOLATIONS

PART 390

390.35 Making or causing to make fraudulent or intentionally false statements or records and/or reproducing fraudulent records.

NOTE: THIS CITATION IS INTENDED TO ADDRESS THE FALSIFICATION OF RECORDS REQUIRED BY PARTS 382, 391, AND 396 SUCH AS MEDICAL EXAMINER CERTIFICATES, MAINTENANCE RECORDS, ETC. FALSE RECORDS OF DUTY STATUS SHOULD BE CITED UNDER SECTION 395.8(e).

PART 395

395.8(e) False reports of records of duty status.

NOTE: ENFORCEMENT ACTION IS MANDATORY ONLY WHEN A 10% OR GREATER FREQUENCY OF FALSIFICATION TO CONCEAL EXCESS HOURS HAS BEEN DISCOVERED.